

## Nuclear Regulatory Commission

## § 75.42

(c) The situations referred to in paragraph (b) of this section include (1) the possibility of loss of nuclear material in excess of specified limits and (2) unexpected changes in containment to the extent that unauthorized removal of nuclear material has become possible.

### § 75.37 Disclosure of reports to IAEA.

The Commission may communicate to the IAEA any reports submitted to it pursuant to this part or any information contained in such reports.

#### INSTALLATIONS DESIGNATED FOR IAEA SAFEGUARDS

### § 75.41 Designation.

The Commission, by written notice, will designate those installations which, in accordance with identifications made from time to time by the IAEA, under Article 39(b) of the principal text of the Agreement, are subject to the application of IAEA safeguards. Such notice shall be effective until the Commission informs the licensee, in writing, that its installation is no longer so designated. Whenever a previously-designated installation is no longer subject to the application of IAEA safeguards, the Commission will give the licensee prompt notice to that effect.

### § 75.42 Inspections.

(a) Each licensee who has been given notice pursuant to § 75.41 shall afford to the IAEA, at all reasonable times, opportunity to inspect its designated installation as provided in this section. Licensee representatives may accompany IAEA inspectors, provided that the IAEA inspectors are not thereby delayed or otherwise impeded in the exercise of their functions.

(b) As provided in the Agreement, an inspection may be ad hoc, routine, or special (or a combination of the foregoing). An inspection shall be deemed to be routine unless the Commission has specifically advised the licensee otherwise.

(c) The locations to which IAEA inspectors shall have access in the performance of inspections shall be as follows:

(1) Ad hoc inspections to verify information contained in the licensee's initial inventory report or to identify and verify changes in the situation which have occurred since the initial inventory reporting date; any location where the initial inventory report or any inspections carried out therewith indicate that nuclear material subject to safeguards under the Agreement may be present.

(2) Ad hoc inspections to identify and if possible verify the quantity and composition of the nuclear material referred to in notifications given under § 75.43(b) (pertaining to exports) or § 75.43(c) (pertaining to imports): Any place where such nuclear material may be located.

(3) Routine inspections: The strategic points referred to in § 75.11 (or, until such strategic points have been specified, to the locations referred to in paragraph (c)(1) of this section) and the records maintained pursuant to this part.

(4) Special inspections: Any of the locations specified above and any additional locations where the Commission, in response to an IAEA request, finds access to be necessary.

(d) Each licensee shall permit the IAEA, in conducting any such inspections, to:

(1) Examine the records kept pursuant to § 75.21 of this part;

(2) Observe that the measurements of nuclear material at key measurement points for material balance accounting are representative;

(3) Verify the functioning and calibration of instruments and other measuring control equipment.

(4) Observe that samples at key measurement points for material balance accounting are taken in accordance with procedures which produce representative samples, to observe the treatment and analysis of the samples, and to obtain duplicates of such samples; and

(5) Arrange to use the IAEA's own equipment for independent measurement and surveillance.

(e) Each licensee shall, at the request of an IAEA inspector:

(1) Ship samples taken for the IAEA's use, in accordance with applicable

packaging and export licensing regulations, by the method of carriage and to the address specified by the inspector; and

(2) Take other actions contemplated by the Agreement, as evidenced by the license conditions, including, for example:

(i) Enabling the IAEA to arrange to install its equipment for measurement and surveillance;

(ii) Enabling the IAEA to apply its seals and other identifying and tamper-indicating devices to containments;

(iii) Making additional measurements and taking additional samples for the IAEA's use;

(iv) Analyzing the IAEA's standard analytical samples;

(v) Using appropriate standards in calibrating instruments and other equipment; and

(vi) Carrying out other calibrations.

(f) Nothing in this section shall be deemed to require or authorize the licensee to carry out any operation that would otherwise constitute a violation of the terms of any applicable license, regulation, or order of the Commission.

(g) The Commission will to the extent feasible, unless the licensee agrees otherwise, assign an employee to accompany any IAEA representative engaged in an inspection described in this section.

(h) The Commission will normally provide a licensee advance notification of any inspection to be carried out by IAEA representatives. The licensee shall notify the Commission promptly, by telephone, whenever an IAEA inspector arrives at an installation without such advance notification.

**§ 75.43 Circumstances requiring advance notification.**

(a) Each licensee who has been given notice, pursuant to § 75.41, shall give advance written notification to the Commission with respect to the international and domestic transfers specified in this section.

(b) *Exports.* Notification shall be given of any proposed shipment of nuclear material for peaceful purposes under an export license issued pursuant to part 110 of this chapter, in an amount exceeding one effective kilogram, directly or indirectly to any

non-nuclear-weapon state (as referred to in Article III(2) of the Treaty on the Non-Proliferation of Nuclear Weapons, 21 U.S.T. 483). If the licensee anticipates that it will make two or more shipments for peaceful purposes, within any period of 90 days, directly or indirectly to destinations in the same non-nuclear-weapon state, notification shall be given of each shipment if the aggregate quantity of nuclear material to be transferred exceeds one effective kilogram.<sup>2</sup>

(c) *Imports.* (1) Notification shall be given (to the fullest extent possible on the basis of available information) with respect to nuclear material which immediately prior to export is subject to safeguards, under an agreement with the IAEA, in the country from which the material, directly or indirectly, is being exported. Such notification is only required, however, if the quantities of nuclear material are as specified in paragraph (c)(2) of this section.

(2) Notification shall be given with respect to any proposed import of nuclear material described in paragraph (c)(1) of this section in an amount exceeding one effective kilogram. If the licensee anticipates that it will receive two or more shipments of such nuclear material, within any 90-day period from points of origin in the same country, notification shall be given with respect to each shipment if the aggregate quantity of such nuclear material to be received exceeds one effective kilogram.

(d) *Domestic transfers.* Notification shall be given with respect to any shipments of nuclear material (other than small quantities in the form of samples containing less than 0.01 effective kilogram per sample) to a non-eligible destination. As used in this paragraph, a *non-eligible destination* means any destination in the United States other than an installation on the United States eligible list.

<sup>2</sup>All foreign countries, with the exception of the People's Republic of China, France, the Soviet Union, and the United Kingdom, are non-nuclear-weapon states. Treaty on the Non-Proliferation of Nuclear Weapons, Article IX(3).